

FILED

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

VOLKSWAGEN AG, a German
corporation, and VOLKSWAGEN GROUP
of AMERICA, INC., a New Jersey
corporation,

Plaintiffs,

vs.

VOLKSWAGENTALK.COM, an Internet
domain name,

Defendant.

Civil Action No. 1:08cv 819

JCC/JFA

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiffs Volkswagen AG and Volkswagen Group of America, Inc. (collectively, "Plaintiffs" or "VW") allege the following in support of their *in rem* claim against the Internet domain name *volkswagentalk.com* (the "Defendant Domain Name"):

NATURE OF THE ACTION

1. This lawsuit involves quintessential domain name cyberpiracy in violation of the Anticybersquatting Consumer Protection Act ("ACPA"), 15 U.S.C. § 1125 *et seq.* The Defendant Domain Name, which consists of VW's world-famous VOLKSWAGEN® trademark paired with the generic term "talk," has been registered by a person living in Russia who is not subject to suit in U.S. federal courts and is being used by him to host a commercial website that he has deliberately designed to appear as if it is operated by VW itself. He uses the website to

display paid advertisements for counterfeit and infringing goods, as well as VW's direct and indirect competitors.

2. Plaintiffs seek an injunction transferring the Defendant Domain Name to Plaintiff Volkswagen Group of America, Inc. ("Volkswagen Group").

THE PARTIES

3. Plaintiff Volkswagen AG is a German corporation, with its principal place of business located in Wolfsburg, Germany. Volkswagen AG is the current name of the corporation formerly known as Volkswagenwerk G.m.b.H.

4. Volkswagen Group is a New Jersey corporation, with its principal place of business at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171. Volkswagen Group is the exclusive U.S. licensee for Volkswagen AG with exclusive authority to import Volkswagen vehicles, parts, accessories, and related products into the U.S. and with responsibility for enforcing the trademarks of Volkswagen AG in the U.S.

5. The Defendant Domain Name, *volkswagentalk.com*, is registered to Unitex, Galina Kozlova, Gotvalda Str 21/3-32, Ekaterinaburg, Sverdlovskya oblast, 640000 Russia. A copy of the WhoIs record for *volkswagentalk.com* is attached as Exhibit A and incorporated herein by reference. The domain name registry for *volkswagentalk.com* is VeriSign Global Registry Services, 21345 Ridgetop Circle, Dulles, Virginia 20166. The domain name registrar for *volkswagentalk.com* is EstDomains, Inc., 110 W. Ninth Street #688, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has *in rem* jurisdiction over the Defendant Domain Name pursuant to 15 U.S.C. § 1125(d)(2)(A)(ii)(I) in that Plaintiffs cannot obtain *in personam* jurisdiction over the registrant of the Defendant Domain Name because the registrant is located outside the U.S. and is not subject to personal jurisdiction in the United States. *In rem* jurisdiction is proper in this district pursuant to 15 U.S.C. § 1125(d)(2)(C)(i) because the domain name registry for the Defendant Domain Name, is located in this judicial district.

8. Further, under 15 U.S.C. § 1125(d)(2)(C)(ii), upon commencement of this case, documents sufficient to establish control and authority regarding the disposition of the registration of the Defendant Domain Name will be expeditiously deposited with the Court.

9. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and 15 U.S.C. §§ 1125(d)(2)(A) and (C) because the domain name registry is located in this district.

FACTUAL BACKGROUND

VW's Trademark Rights

10. VW is one of the most successful automobile manufacturers in the entire world. At the core of the company is VW's VOLKSWAGEN® brand.

11. VW obtained its first U.S. Trademark Registration for VOLKSWAGEN® in 1955 and has acquired many additional registrations for VOLKSWAGEN® and marks that incorporate VOLKSWAGEN®. A copy of VW's registration certificate for VOLKSWAGEN® (U.S. Reg. No. 0,617,131) is attached as Exhibit B and incorporated herein by reference.

12. VW uses VOLKSWAGEN® in connection with a design trademark or logo consisting of an encircled "V" and "W," known as the VW EMBLEM®, depicted below:



13. VW obtained its first U.S. Trademark Registration for the VW EMBLEM® in 1966 and has acquired many additional registrations for the design trademark. A copy of VW's registration certificate for the VW EMBLEM® (Reg. No. 0,804,869) is attached as Exhibit C and incorporated herein by reference.

14. VW holds additional registrations for VOLKSWAGEN® and the VW EMBLEM® in many other countries throughout the world.

15. VW's registrations for the marks VOLKSWAGEN® (Reg. No. 0,617,131) and VW EMBLEM® (Reg. No. 0,804,869) (the "VW Marks") are valid, unrevoked, subsisting, and incontestable, and constitute *prima facie* evidence of VW's exclusive ownership of these marks.

16. VW has expended many millions of dollars in advertising, promoting, enforcing, and developing the VW Marks throughout the world. As a result of such advertising and expenditures, VW has established immeasurable goodwill in the VW Marks, which are among the most well-known and valuable trademarks in the world.

17. The VW Marks are inherently distinctive and have acquired distinctiveness as a consequence of VW's use and promotion of the marks worldwide.

18. VW advertises online and operates a number of websites using domain names that incorporate the VW Marks. Subject to terms and conditions set by VW to ensure quality and uniformity, VW also authorizes its licensed dealers to operate websites using domain names that incorporate the VW Marks. Volkswagen AG's official website is located at *volkswagen.com*.

The Defendant Domain Name was Registered and is Being Used in Bad Faith

19. The Defendant Domain Name is confusingly similar to the VOLKSWAGEN trademark, consisting in distinctive part of VW's world famous and registered VOLKSWAGEN® trademark combined with the generic term "talk."

20. The Defendant Domain Name has been and is currently being used to host a commercial website that has been deliberately designed to appear as if it is operated by VW (the "Infringing Website"). The VW EMBLEM®, for example, is prominently displayed on the website, as well as the name "VolkswagenTalk.com," which is displayed in the distinctive lettering or font, known as Memphis Bold, in which the letters "V" and "W" are displayed in the VW EMBLEM® and which is used by VW in its advertising. The Infringing Website also features a photographic image of a VW automobile, which has been positioned to highlight the VW EMBLEM® that appears on the automobile's grille. A true and correct screenshot of the homepage of *volkswagentalk.com* printed on July 16, 2008, is attached hereto as Exhibit D and incorporated herein by reference.

21. The Infringing Website serves as a marketplace for unlicensed products bearing the VW Marks and was designed to lure unsuspecting consumers into purchasing goods and services bearing the VW Marks from unlicensed providers rather than from VW and its duly authorized licensees.

22. The Infringing Website also displays paid or sponsored advertisements for VW's direct and indirect competitors, including, for example, Toyota.

23. The Infringing Website also incorporates the VW Marks and the names of several models of VW automobiles in metatags or meta elements, unseen website codes that assist search

engines in classifying webpages. Copies of the metatags incorporated in the Infringing Website juxtaposed with the metatags incorporated in *VW.com* are attached hereto as Exhibit E and incorporated herein by reference.

24. Volkswagen has not authorized use of the VW Marks in connection with the Defendant Domain Name or the Infringing Website.

CLAIM FOR RELIEF
(Cyberpiracy)

25. The allegations set forth above are incorporated herein by this reference.

26. The actions described above evidence bad faith intent to profit from the registration or use of the VW Marks and are confusingly similar variations thereof in the Defendant Domain Name.

27. VW is entitled to an order and injunction immediately transferring the Defendant Domain Name to Plaintiff Volkswagen Group of America, Inc..

WHEREFORE, Plaintiffs pray for judgment as follows:

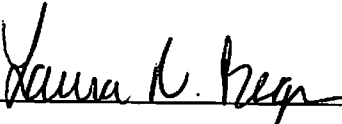
A. That VeriSign Global Registry Services be ordered to change the registrar of the Defendant Domain Name to IP Protector;

B. That IP Protector be ordered to register the Defendant Domain Name in the name of Volkswagen Group of America, Inc.; and

C. For such other relief as the Court may consider just and appropriate.

Dated this 6th day of August, 2008.

Respectfully submitted,
**VOLKSWAGEN AG and
VOLKSWAGEN GROUP OF AMERICA, INC.**

By: 

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Attorneys for Plaintiffs

VERIFICATION

Debra Kingsbury, under penalty of perjury of the laws of the United States declares:

That she is Assistant General Counsel of Volkswagen Group of America, Inc., and directs Volkswagen Group of America, Inc.'s trademark enforcement program; that she has read, is familiar with, and has personal knowledge of the contents of the foregoing Verified Complaint; and that the allegations thereof are true and correct or, to the extent that matters are not within her personal knowledge, that the facts stated therein have been assembled by authorized personnel, including counsel, and that she is informed that the facts stated therein are true and correct.

Executed this 30th day of July 2008 in Herndon, Virginia.

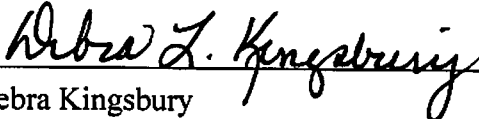

Debra Kingsbury

EXHIBIT A

NetworkSolutions.

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Shopping Cart

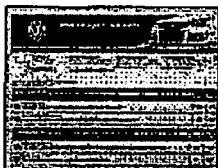
WHOIS Search Results

Available volkswagentalk extensions:

.net	.org	.us	.mobi	.info	.biz	.de	.tv	.co.uk	.eu	.bz
------	------	-----	-------	-------	------	-----	-----	--------	-----	-----

Order Selected Domain(s)

Your WHOIS Search Results



volkswagentalk.com

Services from Network Solutions:

- Certified Offer Service - Let us help you get this domain name!
- Backorder - Try to get this name when it becomes available.
- SSL Certificates - Get peace of mind with a secure certificate.
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SEARCH AGAIN

Enter a search term:

e.g. networksolutions.com

Search by:

- ☒ Domain Name
- ☐ NIC Handle
- ☐ IP Address

Search

Registration Service Provided By: ESTDOMAINS INC
Contact: +1.3027224217
Website: http://www.estdomains.com

Domain Name: VOLKSWAGENTALK.COM

Registrant:

Unitex
Galina Kozlova (unitex@inbox.ru)
gotvalda str 21/3-32
Ekaterinburg
Sverdlovskaya oblast, 640000
RU
Tel. +7.89049835500

Creation Date: 20-Jan-2006
Expiration Date: 20-Jan-2009

Domain servers in listed order:
ns.volkswagentalk.com
ns1.volkswagentalk.com

Administrative Contact:

Unitex
Galina Kozlova (unitex@inbox.ru)
gotvalda str 21/3-32
Ekaterinburg
Sverdlovskaya oblast, 640000
RU
Tel. +7.89049835500



**PerformanceClicks™ from
Network Solutions**
Create and manage your pay
per click advertising from as
low as \$125/month plus \$99
one time set-up fee

Billing Contact:

Unitex
Galina Kozlova (unitex@inbox.ru)
gotvalda str 21/3-32
Ekaterinburg
Sverdlovskaya oblast, 640000
RU
Tel. +7.89049835500

Status: ACTIVE

The data in this whois database is provided to you for information purposes only, that is, to assist you in obtaining information about or related to a domain name registration record. We make this information available "as is", and do not guarantee its accuracy. By submitting a whois query, you agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (1) enable high volume, automated, electronic processes that stress or load this whois database system providing you this information; or (2) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via direct mail, electronic mail, or by telephone. The compilation, repackaging, dissemination or other use of this data is expressly prohibited without prior written consent from us. The registrar of record is ESTDOMAINS Inc. We reserve the right to modify these terms at any time. By submitting this query, you agree to abide by these terms.

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

Show underlying registry data for this record

Current Registrar:	ESTDOMAINS, INC.
IP Address:	208.109.253.118 (ARIN & RIPE IP search)
IP Location:	US(UNITED STATES)-ARIZONA-SCOTTSDALE
Record Type:	Domain Name
Server Type:	Apache 2
Lock Status:	ok
Web Site Status:	Active
DMOZ	no listings
Y! Directory:	see listings
Web Site Title:	Volkswagen Forum - VolkswagenTalk.com
Meta Description:	Volkswagen Forum. Message board for all VW models - Jetta, Golf, GTI, Polo, Beetle, Eos, Passat, Touareg, Phaeton. Includes engines, specifications, tuning, modifications, repairs, tech tips and photos.
Meta Keywords:	Volkswagen Forum, volkswagen, beetle, passat, touareg, phaeton, golf, jetta, volkswagen forum
Secure:	No
E-commerce:	No
Traffic Ranking:	4
Data as of:	25-Jan-2008

your domain name registration be included in a public database known as WHOIS. To learn about actions you can take to protect your WHOIS information visit www.internetprivacyadvocate.org.

NOTICE AND TERMS OF USE: You are not authorized to access or query our WHOIS database through the use of high-volume, automated, electronic processes or for the purpose or purposes of using the data in any manner that violates these terms of use. The Data in

Network Solutions' WHOIS database is provided by Network Solutions for information purposes only, and to assist persons in obtaining information about or related to a domain name registration record. Network Solutions does not guarantee its accuracy. By submitting a WHOIS query, you agree to abide by the following terms of use: You agree that you may use this Data only for lawful purposes and that under no circumstances will you use this Data to: (1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via direct mail, e-mail, telephone, or facsimile; or (2) enable high volume, automated, electronic processes that apply to Network Solutions (or its computer systems). The compilation, repackaging, dissemination or other use of this Data is expressly prohibited without the prior written consent of Network Solutions. You agree not to use high-volume, automated, electronic processes to access or query the WHOIS database. Network Solutions reserves all rights and remedies it now has or may have in the future, including, but not limited to, the right to terminate your access to the WHOIS database in its sole discretion, for any violations by you of these terms of use, including without limitation, for excessive querying of the WHOIS database or for failure to otherwise abide by these terms of use. Network Solutions reserves the right to modify these terms at any time.

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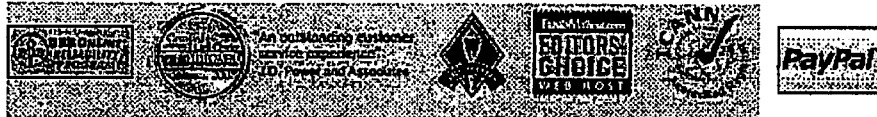
SOLUTIONS TO SELL ONLINE

SOLUTIONS TO GET CUSTOMERS

SOLUTIONS FOR ONLINE SECURITY

SOLUTIONS TO SAVE MONEY

COMPANY INFORMATION



100% Secure Transaction

For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

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EXHIBIT B

United States Patent Office

617,131

Registered Dec. 6, 1955

PRINCIPAL REGISTER Trademark

Ser. No. 665,739, filed May 4, 1954

VOLKSWAGEN

Volkswagenwerk G. m. b. H. (German corporation)
Wolfsburg, Germany

For: VEHICLES—NAMELY, AUTOMOBILES AND
TRUCKS, AIR CRAFT, BOATS; AND PARTS OF
AND ACCESSORIES FOR AUTOMOBILES—NAME-

LY, RADIATORS, DIRECTION INDICATORS,
WINDSHIELD DEFROSTERS, ANTI-DAZZLE AP-
PLIANCES, WINDSHIELD WIPERS, SHOCK AB-
SORBERS, BRAKES, AND BAGGAGE RACKS—in
CLASS 19.

First used July 1, 1950, and in commerce July 1, 1950.
"Volkswagen" is translated as "people's car."

EXHIBIT C

United States Patent Office

804,869

Registered Mar. 1, 1966

PRINCIPAL REGISTER Service Mark

Ser. No. 198,788, filed July 29, 1964



Volkswagenwerk Aktiengesellschaft (German corporation)
Wolfsburg, Germany

For: REPAIR AND RECONDITIONING OF MOTOR VEHICLES, AIRCRAFT AND BOATS, in CLASS 103.

First use 1949; in commerce July 1, 1950.
Owner of Reg. No. 631,649.

M. E. ABRAMSON, Examiner.

EXHIBIT D



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Volkswagen Forum Index

View unanswered posts

VOLKSWAGEN FORUM			
FORUM	TOPICS	POSTS	LAST POST
Introductions This area is for new members that want to start off by saying hello.	274	599	Tue Jul 15, 2008 4:37 pm chassis221
General VW Discussion Talk about anything you like in this area. Brag about your ride or whatever.	317	926	Wed Jul 16, 2008 12:49 pm solenhan
VOLKSWAGEN MODELS			
FORUM	TOPICS	POSTS	LAST POST
Volkswagen Golf The spunky versatile hatchback. Great for hauling groceries, band gear, or garage sale finds.	409	1257	Wed Jul 16, 2008 9:10 am click
Volkswagen GTI The original hot hatchback. A lean, mean, driving machine.	129	377	Mon Jul 14, 2008 3:23 pm click
Volkswagen Jetta The mid-size sedan that's all grown up...	629	1821	Wed Jul 16, 2008 6:11 am AndrewP
Volkswagen Polo Volkswagen Polo forum.	93	164	Sun Jul 13, 2008 3:01 pm Steve
Volkswagen Beetle The slightly redesigned Volkswagen icon.	207	533	Wed Jul 16, 2008 3:27 pm keatnick
Volkswagen Eos Volkswagen Eos discussion forum.	12	25	Fri Jul 11, 2008 3:23 pm volkshaus
Volkswagen Passat The fun-to-drive sedan with luxury and a bunch of special features.	237	614	Wed Jul 16, 2008 6:08 am AndrewP
Volkswagen Passat Wagon The same great VW Passat, just a little more of it.	36	51	Sat Jul 12, 2008 6:02 pm wrcm
Volkswagen Phaeton A new kind of luxury car, from Volkswagen.	7	39	Fri Jul 11, 2008 11:39 pm kheoner
Volkswagen Touareg The ability to drive off-road with Volkswagen.	20	58	Thu Jun 05, 2008 5:57 pm Johan556
Other Volkswagen Models Not listed above. VW Sharan, Touran, Tiguan, Caravelle etc.	14	20	Mon Jun 30, 2008 6:08 pm Sander
VOLKSWAGEN TECHNICAL DISCUSSION			
FORUM	TOPICS	POSTS	LAST POST
Volkswagen Tech Tips Submit your Volkswagen tech tips here.	82	200	Fri Jul 11, 2008 12:50 pm beatlemania
Performance and Modifications Performance discussions relating to all Volkswagen models.	78	304	Wed Jul 16, 2008 3:25 am VlawMKIII
THE MARKETPLACE			
FORUM	TOPICS	POSTS	LAST POST
Volkswagen Cars for Sale Post only VW vehicles for sale, wanted or trade in this forum.	55	92	Tue Jul 15, 2008 12:58 am phvvi4
Volkswagen Parts for Sale Post only VW parts or related items for sale, wanted or trade in this forum.	63	114	Wed Jul 16, 2008 11:39 am Is3Rella
VOLKSWAGEN TALK SITE ISSUES			

FORUM		TOPICS	POSTS	LAST POST
	Site Crag This area is for things about the web site, forums, and administration.	11	74	Mon Jul 14, 2008 9:20 pm click 

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Our users have posted a total of 7268 articles We have 4124 registered users			
The newest registered user is Lansyn			
In total there are 24 users online :: 3 Registered, 0 Hidden and 22 Guests [Administrator] [Moderator] Most users ever online was 57 on Wed Apr 16, 2008 4:08 pm Registered Users: beatnick , sibarge			






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  Forum is locked

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EXHIBIT E

Meta Tags from Website Displayed at VOLKSWAGENTALK.COM	Meta Tags from Official Volkswagen site Displayed at VW.COM
meta name="Description" content="Volkswagen Forum. Message board for all VW models - Jetta, Golf, GTI, Polo, Beetle, Eos, Passat, Touareg, Phaeton. Includes engines, specifications, tuning, modifications, repairs, tech tips and photos." meta name="Keywords" content="Volkswagen Forum, volkswagen, beetle, passat, touareg, phaeton, golf, jetta, volkswagen forum"	meta name="Description" content="Volkswagen of America presents U.S. vehicle information, pricing, incentives, deals, comparisons on Eos, GTI, Jetta, New Beetle, New Beetle Convertible, Passat, Passat Wagon, Touareg 2, Rabbit, R32 and the GLI with links to VW dealers, owner information, Volkswagen merchandise, and VW accessories."